

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 1. DEPARTMENT OF ADMINISTRATION

#### PREAMBLE

- |                             |                          |
|-----------------------------|--------------------------|
| <b>1. Sections Affected</b> | <b>Rulemaking Action</b> |
| R2-1-901                    | Amend                    |
| R2-1-902                    | Amend                    |
| R2-1-903                    | Amend                    |
| R2-1-904                    | Amend                    |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 41-703  
Implementing statute: A.R.S. §§ 41-786
- 3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Kayelen Corley  
Address: Department of Administration  
1700 West Washington, Suite 420  
Phoenix, Arizona 85007  
Telephone: (602) 542-3632  
Fax: (602) 542-3636
- 4. An explanation of the rule, including the agency's reasons for initiating the rule:**  
These rules, as originally adopted, allow the state to participate in a vanpool program operated by a regional transit authority and to provide a vanpool subsidy to the regional transit authority on behalf of eligible state employees. The rules are being amended to allow a state agency to administer a vanpool program in areas not serviced by a regional transit authority, and for that agency to receive a vanpool subsidy on behalf of eligible state employees. The change was requested by the Department of Corrections because the regional transit authority in Pima County does not administer a vanpool program. The Department of Corrections will be administering their own vanpool program to serve their employees living in Tucson and commuting to the correctional facility in Florence.
- 5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
- 6. The preliminary summary of the economic, small business, and consumer impact:**  
The rules allow the use of vanpools in areas not currently serviced by a regional transit authority. The secondary effect is to reduce employee turnover at the Department of Corrections facility that requested the rule change. The lowering of pollution from consolidating up to 9 commuters into 1 vehicle is significant. The need for parking at the state offices served and the lower congestion on the state highways are additional benefits that accrue to the public.

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**7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Kayelen Corley  
Address: Department of Administration  
1700 West Washington, Suite 420  
Phoenix, Arizona 85007  
Telephone: (602) 542-3632  
Fax: (602) 542-3636

**8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No oral proceeding has been scheduled for this rulemaking. An oral proceeding will be scheduled if at least 5 persons submit a written request for an oral proceeding within 30 days of the date of publication of this notice. A written request for oral proceedings should be presented to the person identified above.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
None.

**10. Incorporations by reference and their location in the rules:**  
None.

**11. The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 1. DEPARTMENT OF ADMINISTRATION**

**ARTICLE 9. REIMBURSEMENT FOR VANPOOL  
TRANSPORTATION**

**Section**

R2-1-901. Definitions  
R2-1-902. Vanpool Reimbursement Subsidy Eligibility  
R2-1-903. Vanpool Reimbursement Subsidy Amount  
R2-1-904. Vanpool Reimbursement Subsidy Procedure

**ARTICLE 9. REIMBURSEMENT FOR VANPOOL  
TRANSPORTATION**

**R2-1-901. Definitions**

In this Article, unless otherwise specified, the following terms apply the context otherwise requires:

1. "Commute" means traveling travel to and from an employee's place of employment.
2. "Director" means the director of the Department of Administration or the Director's designee.
3. "Eligible employee Employee" means an individual who is employed by the state of Arizona in a paid work status who lives or works in a vehicle emissions control area, as defined in A.R.S. § 49-541, except university employees and those employees subject to the provisions of A.R.S. § 23-981(01).
4. "Paid work status" means the condition of an employee of the state of Arizona who is receiving pay for work or for compensated absence from work the State of Arizona.
5. "Reduced cost" means the eligible employee's share of the total cost of vanpool transportation which that remains after the reimbursement subsidy has been paid.
6. "Reimbursement subsidy" means the portion of the total cost of vanpool transportation which that is paid, on behalf of an eligible employee, to a regional transit authority or state agency through a contract with the state of Arizona. on behalf of an eligible employee.
7. "Regional transit authority" means an incorporated city or town, regional public transportation authority as defined in A.R.S. § 28-2502(A), or regional transporta-

tion authority as defined in A.R.S. § 28-2902(A) which that operates or licenses a vanpool program.

8. "State agency" means an agency which administers a vanpool program in an area not served by a regional transit authority.

- 8-9. "Vanpool" means 7 or more persons who commute commuting in an van sponsored by a regional transit authority or administered by a state agency.

**R2-1-902. Vanpool Reimbursement Subsidy Eligibility**

A reimbursement subsidy shall be paid to a regional transit authority or a state agency on behalf of an eligible employee in a paid work status who:

1. Commutes in a vanpool operated by the regional transit authority or administered by a state agency; and
2. Has completed the vanpool reimbursement subsidy application form.

**R2-1-903. Vanpool Reimbursement Subsidy Amount**

The Director shall determine the amount of reimbursement subsidy, of up to 100% of the actual cost of vanpool transportation, shall be determined by the Director according to the following: the number of eligible employees participating in the program, the cost of vanpooled transportation, and the amount of state funds appropriated by the legislature for reimbursement subsidy purposes. The Director will shall notify employees of the initial percentage of subsidy prior to enrollment of the employee into in the program and of any change in that percentage prior to the change taking effect.

**R2-1-904. Vanpool Reimbursement Subsidy Procedure**

Upon receipt, from the The regional transit authority or state agency shall submit to the Director an of a detailed invoice that itemizes each eligible employee and the eligible employee's monthly vanpool reimbursement subsidy amount. ; The Director shall the Department of Administration will pay the reimbursement subsidy amount upon receipt of the invoice from to the regional transit authority or the state agency. The employee shall pay the reduced cost to the regional transit authority or the state agency. remainder of the total monthly vanpool cost, considered the reduced cost, will be billed by the regional transit authority, or its designee, and the employee will pay that amount.

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**TITLE 2. ADMINISTRATION**

**CHAPTER 5. DEPARTMENT OF ADMINISTRATION  
PERSONNEL ADMINISTRATION**

**PREAMBLE**

1. **Sections Affected** **Rulemaking Action**  
R2-5-403 Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 41-763  
Implementing statute: A.R.S. § 41-783
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Gordon Carrigan  
Human Resources Generalist  
  
Address: Department of Administration  
1831 West Jefferson, Room 107  
Phoenix, Arizona 85007  
  
Telephone: (602) 542-4784  
Fax: (602) 542-2796
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The proposed rulemaking amends the subsection of the Annual Leave Rule that explains eligibility for donated annual leave to conform to S.B. 1181. The Legislature removed the restriction that the seriously incapacitating illness or injury that qualifies an employee for donated annual leave must be non-job-related. A job-related illness or injury now can qualify for donated annual leave.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
6. **The preliminary summary of the economic, small business, and consumer impact:**  
The proposed rulemaking affects State Service employees only and will not have an impact on small businesses and consumers. Any financial impact would be restricted to a transfer of annual leave from 1 employee in an agency to another employee in the same agency on a dollar-for-dollar basis without increasing or decreasing expenditures.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**  
Name: Claudia Smith  
Communications Unit Manager  
  
Address: Department of Administration  
1831 West Jefferson, Room 103  
Phoenix, Arizona 85007  
  
Telephone: (602) 542-4894  
Fax: (602) 542-2796
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**  
No public proceeding is scheduled. A person may submit written comments or a written request that an oral proceeding be held on the proposed rule. Requests must be submitted by no later than 5 p.m., June 16, 1997, to Gordon Carrigan at the address listed above.
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.
10. **Incorporations by reference and their location in the rules:**  
None.

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**11. The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 5. DEPARTMENT OF ADMINISTRATION  
PERSONNEL ADMINISTRATION**

**ARTICLE 4. BENEFITS**

Section  
R2-5-403. Annual Leave

**ARTICLE 4. BENEFITS**

**R2-5-403. Annual Leave**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. Contribution of annual leave.
  - 1. No change.
  - 2. Eligibility. Annual leave may be contributed by 1 employee to another employee in the same agency provided all the following conditions are satisfied:
    - a. The recipient of the donated leave has a ~~non-job-related~~, seriously incapacitating and extended illness or injury, or a member of the donated leave has a seriously incapacitating and extended illness or injury; ~~and~~,
- b. The recipient of leave for a qualifying illness or injury has exhausted all leave except for sick leave granted in accordance with R2-5-404(A)(4). If the employee is the recipient of donated annual leave for illness or injury of the recipient's immediate family, the recipient 1st must exhaust 40 hours of sick leave, if available for this purpose pursuant to R2-5-404(A)(4); ~~and~~,
- c. All unused leave donated to the recipient is returned to the leave contributors on a pro rata basis; if the leave recipient separates from state service or recovers prior to using all leave donated or the need for the leave is otherwise abated; and
- d. The dollar amount of annual leave donated is adjusted proportionately in relation to the salary of the employee donating the leave and the salary of the employee receiving the donated leave.
- 3. No change.
- F. No change.
- G. No change.
- H. No change.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE DIVISION**

**PREAMBLE**

- 1. **Sections Affected**  
R17-4-217
- Rulemaking Action**  
New Section
- 2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 28-202  
Implementing statute: A.R.S. §§ 28-313.01
- 3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Randall X. Ramsey  
Address: Motor Vehicle Division  
Commercial Licensing Office  
1801 West Jefferson, Mail Drop 532M  
Phoenix, Arizona 85007-3224  
Telephone: (602) 255-8828  
Fax: (602) 407-3437
- 4. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Motor Vehicle Division is promulgating the rule to offer biennial registration for vehicles. Biennial registration will be mandatory for some vehicles, optional for some vehicles, and not available for other vehicles. The public will be able to register their vehicles once every 2 years instead of annually. This will reduce registration fees to the public, save postage and processing costs, and utilize Motor Vehicle Division resources more effectively.
- 5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.

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6. The preliminary summary of the economic, small business, and consumer impact:

Biennial registration will provide significant cost savings to the Division by reducing labor and postage costs involved in processing 1-year registrations. It will also provide better public service by utilizing resources more effectively, since the traffic in auto license offices will be reduced. The customer will receive an immediate benefit by only paying 1 \$8 registration fee to cover both years instead of paying an \$8 registration fee each year.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Randall X. Ramsey  
Address: Motor Vehicle Division  
Commercial Licensing Office  
1801 West Jefferson, Mail Drop 532M  
Phoenix, Arizona 85007-3224  
Telephone: (602) 255-8828  
Fax: (602) 407-3437

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be accepted at the address listed above until 5 p.m. June 18, 1997. Public hearings to receive oral comments regarding this proposed rule will be held as follows:

Date: June 16, 1997  
Time: 1:30 p.m.  
Location: Flagstaff City Council Conference Room  
211 West Aspen  
Flagstaff, Arizona

Date: June 17, 1997  
Time: 11 a.m.  
Location: MVD Conference Room  
3565 South Broadmont  
Tucson, Arizona

Date: June 18, 1997  
Time: 1 p.m.  
Location: ADOT Auditorium  
206 South 17th Avenue  
Phoenix, Arizona

Individuals who wish to make oral comments by telephone may call (602) 255-8828 on June 20, 1997, from 8 a.m. to 10 a.m.

The Department of Transportation follows Title II of the Americans with Disabilities Act. The Department of Transportation does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services to participate in the above-scheduled hearings, or who require this information in an alternate form, may contact the Commercial Licensing Office (602) 255-8828 as soon as possible so that the Department of Transportation will have sufficient time to respond.

To request accommodation to participate in the public comment period or obtain this notice in large print, Braille, or on audiotape, contact Randall X. Ramsey at (602) 255-8828, 1801 West Jefferson, Mail Drop 532M, Phoenix, Arizona 85007-3224.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

10. Incorporations by reference and their location in the rules:

None.

11. The full text of the rules follows:

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**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE DIVISION**

**ARTICLE 2. TITLES AND REGISTRATION**

Section

**R17-4-217. Biennial Registration**

**ARTICLE 2. TITLES AND REGISTRATION**

**R17-4-217. Biennial Registration**

A. Definitions. In this Section, unless the context otherwise requires:

1. "Alternative Form of Registration" means allocated registration, apportioned registration, interstate registration, and undersized mobile home plate registration.
2. "Biennial" means 1 in every 2-year period.
3. "Director" means the Assistant Director of the Department of Transportation, Motor Vehicle Division, or a designee of the Assistant Director.
4. "Division" means the Motor Vehicle Division of the Department of Transportation.
5. "Gross Vehicle Weight Rating" has the same meaning as in A.R.S. § 28-402.
6. "IM 240 Test" means the emissions test prescribed by A.R.S. § 49-542(F)(2)(a).
7. "Nonattainment Area" has the same meaning as in A.R.S. § 49-401.01.
8. "Nonqualified Vehicle" means a vehicle with an alternative form of registration or a vehicle required to have an annual emissions test, or a vehicle required to have an IM 240 test within 12 months from the date of registration.
9. "Qualified Vehicle" means a vehicle that does not have an alternative form of registration and is either exempt from emissions testing or is required to have the IM 240 test for the upcoming registration year before its registration may be established or renewed.

10. "Registration" means the authorization issued by the Division that allows a vehicle to use state highways.

B. Mandatory biennial registration. The owner of a qualified vehicle that meets 1 of the following criteria shall have the vehicle registered biennially:

1. Beginning August 5, 1997, a vehicle with vehicle license tax for the current year equal to or less than \$75. Beginning August 5 of each succeeding year through 2001, the Division shall increase by \$25 the amount of vehicle license tax that requires a qualified vehicle to be registered biennially.
2. A newly liened or newly leased vehicle.

C. Vehicle exempt from biennial registration.

1. A vehicle required to have an IM 240 test within 12 months after the date of registration.
2. A vehicle that requires an annual emissions test.
3. A vehicle with an allocated registration.
4. A vehicle with an apportioned registration.
5. A vehicle with an interstate registration.
6. A vehicle with a registration exemption that is required to be certified annually, such as the exemption available to windows, and totally disabled persons other than totally disabled veterans.

D. Optional biennial registration. The owner of a qualified vehicle with a vehicle license tax greater than that described in subsection (B)(1) may have the vehicle registered biennially.

E. Waiver. The Director shall allow a vehicle that is required to be registered biennially to be registered annually if the vehicle owner submits an application for waiver and proves 1 of the following by clear and convincing evidence:

1. Biennial registration would impose an undue hardship upon the owner, or
2. The vehicle will not be a qualified vehicle during the entire 2-year registration period.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY  
WASTE MANAGEMENT**

**PREAMBLE**

**1. Sections Affected**

R18-8-260  
R18-8-261  
R18-8-262  
R18-8-263  
R18-8-264  
R18-8-265  
R18-8-266  
R18-8-268  
R18-8-270  
R18-8-271  
R18-8-273

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend

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2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 49-922

Authorizing statute: A.R.S. § 49-922

3. The name and address of agency personnel with whom persons may communicate regarding the rule:

**Primary Contact:**

Name: Lynn A. Keeling, Rules Specialist  
Address: Department of Environmental Quality  
3033 North Central, Room 844A  
Phoenix, Arizona 85012-2809  
Telephone: 602-207-2223 or 800-234-5677 ext. 2223 (Arizona only)  
Fax Number: 602-207-2251

**Secondary Contact:**

Name: Martha Seaman, Manager of Rule Development  
Address: Department of Environmental Quality  
3033 North Central, Room 831  
Phoenix, Arizona 85012-2809  
Telephone: 602-207-2222 or 800-234-5677 ext. 2222 (Arizona only)  
Fax Number: 602-207-2251

4. An explanation of the rule, including the agency's reasons for initiating the rule:

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- A. General Information about the Incorporations by Reference as of July 1, 1996.
- B. Descriptions of the revisions incorporated by reference.
- C. Summary of state-specific changes.

THE EXPLANATION OF THE RULE

- A. General Information about the Incorporations by Reference as of July 1, 1996.

Every year the Department of Environmental Quality (ADEQ) amends the state's hazardous waste rules. The state's hazardous waste rules are generally comprised of the federal regulations, authorized by Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), which are incorporated by reference. The hazardous waste rules are well established and have been effective since 1984. This year's amendments cover changes in the federal regulations promulgated between July 2, 1995, and July 1, 1996.

For Arizona to be authorized to manage the federal hazardous waste program, ADEQ must either incorporate by reference the federal regulations or write state rules that are equivalent to and consistent with federal regulations. Incorporating the federal regulations will keep Arizona's hazardous waste management program funded by the United States Environmental Protection Agency (EPA) and in compliance with A.R.S. § 49-922. The EPA requires that Arizona be re-authorized to maintain the authority to manage the federal hazardous waste program in lieu of the EPA administering the program in Arizona. ADEQ received final RCRA authorization in 1985 and continues to apply for re-authorization to keep current with changes to federal regulations. Adoption of federal regulations also promotes compliance uniformity among states. Most of the federal regulations incorporated by reference in this rulemaking are required for re-authorization.

The following changes are state initiated and not required for re-authorization. However, the changes are reviewed by the EPA.

- 1. Acceptance of EPA issued variances pursuant to 40 CFR 260.30-33.
- 2. The addition of clarification language to R18-8-260 to expressly state how generator status is determined for registration fee purposes required by A.R.S. § 49-929.
- 3. Time frames for submission of exception reports.
- 4. Amendment of 40 CFR 273 to include mercury-containing waste lamps as universal waste.

To identify the changes made to the incorporations by reference in the rules, the date has been changed from July 1, 1995, to July 1, 1996, in subsection (A) of most Sections. Subsection (A) of R18-8-260 through R18-8-266, R18-8-268, R18-8-270, R18-8-271, and R18-8-273 incorporates by reference the federal regulations published in 40 CFR 260

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through 266, 268, 270, 273, and 124 as of July 1, 1996, with certain exceptions. R18-8-269 and R18-8-280 are state rules that do not incorporate federal regulations.

The purpose of this rulemaking is primarily to incorporate the text of federal regulations for re-authorization by the EPA. Modifications to the text incorporated by reference are intended to make the language consistent with state terminology, and not intended to make substantive changes to the content. For example, the federal regulations incorporated by reference refer to the "EPA" because it is the implementing agency. Yet, Arizona is authorized to implement and enforce the RCRA program contained in the incorporated regulations, therefore "EPA" is usually replaced with "ADEQ" when referring to the agency that implements the regulations. Because the changes to the federal regulations are generally to tailor the language to ADEQ, the changes to the incorporated text are not intended to have any additional impact beyond the federal regulation.

**B. Descriptions of the revisions incorporated by reference.**

1. Rule Title: Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators: Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers. This rule amends the standards in 59 FR 62896, December 6, 1994, to postpone the effective date of the requirements in the December 6, 1994 final rule (previously incorporated by reference) until October 6, 1996. This rule can be found in 61 FR 28508, June 5, 1996.
2. Rule Title: Hazardous Waste Management: Liquids in Landfills. On November 18, 1992, EPA promulgated a final rule on liquids in landfills. That rule satisfied a statutory requirement in RCRA regarding the landfill disposal of containerized liquids. Specifically, the statute required EPA to issue a rule that prohibited the disposal in hazardous waste landfills of liquids that have been absorbed in materials that biodegrade. The November 18, 1992, rule includes 2 tests that could be used to demonstrate non-biodegradability. Today's rulemaking, which is issued in response to a petition, provides increased flexibility to the regulated community by adding another test to demonstrate that a sorbent is non-biodegradable. This rule can be found in 60 FR 35703, July 11, 1995.
3. Rule Title: Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators: Organic Air Emissions Standards for Tanks, Surface Impoundments, and Containers. This rule issues a stay of Subpart CC, subject to conditions for air standards applicable to tanks and containers used for the management of certain hazardous wastes generated by organic peroxide manufacturing processes. Certain organic peroxide manufacturing wastes are inherently unstable and can not safely be confined in closed units or systems such as tanks and containers. Therefore, EPA is staying the applicability of the Subpart CC technical requirements for units managing these specific organic peroxide compounds. This rule can be found in 60 FR 50426, September 29, 1995.
4. Rule Title: RCRA Expanded Public Participation. This rule will improve the process for permitting facilities that store, treat, or dispose of hazardous wastes by providing earlier opportunities for public involvement in the process, and expanding public access to information throughout the permitting process and operational lives of the facilities. This rule can be found in 60 FR 63417, December 11, 1995.
5. Rule Title: Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators: Organic Air Emissions Standards for Tanks, Surface Impoundments and Containers. This rule makes clarifying amendments in the regulatory text of final organic air emissions standards for tanks, surface impoundments, and containers. It also corrects typographical and grammatical errors, and clarifies certain language in the preamble to the final rule published on December 6, 1994. This rule can be found in 61 FR 4903, February 9, 1996.
6. Rule Title: Identification and Listing of Hazardous Waste: Amendments to Definition of Solid Waste. This rule corrects the text of a regulatory exclusion from the regulatory definition of solid waste from recovered oil which is inserted into the petroleum refining process. The current text of the exclusion contains a factual error as to the location in the refining process at which recovered oil can be inserted. The result of this error is to inappropriately restrict legitimate recycling of recovered oil. The corrected rule also in fact reflects the result EPA initially intended, which was to condition the exclusion of recovered oil on the oil being reinserted into the petroleum refining process at a point where that process removes or will remove at least some contaminants. This rule can be found in 61 FR 13103, March 26, 1996.
7. Rule Title: Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision C(92)39 Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations. This rule identifies the wastes, under RCRA, that are subject to a graduated system (green, amber, red) of procedural and substantive controls when they move across national borders within the Organization for Economic Cooperation and Development (OECD) for recovery. It seeks to make the transaction fully transparent and to prevent or minimize the possibility of such wastes being abandoned or otherwise illegally handled. These requirements will apply only to U.S. exporters and importers of RCRA hazardous wastes destined for recovery in OECD countries (except for Canada and Mexico; waste shipments to and from these countries will continue to move under the current bilateral agreements and regulations). Those U.S. exporters and importers transacting hazardous waste movements outside the scope of today's rule will remain subject to EPA's current waste export and import regulations at 40 CFR 262, Subparts E and F. This rule does not increase the scope of wastes subject to U.S. export and import controls; it does, however, modify the procedural controls governing their export and import when shipped for recovery among OECD countries. Today's rule will remain subject to EPA's current waste export and import regulations at 40 CFR 262, Subparts E and F. This rule can be found in 61 FR 16290, April 12, 1996.



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8. Rule Title: Land Disposal Restrictions Phase II -- Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners. This rule promulgates treatment standards for hazardous wastes from the production of carbamate pesticides and from primary aluminum production under the Land Disposal Restrictions (LDR) program. The purpose of the LDR program, authorized under RCRA, is to minimize short- and long-term threats to human health and the environment due to land disposal of hazardous waste. This rule is also amending the treatment standards for hazardous wastes that exhibit the characteristic of reactivity. These wastes are sometimes treated in lagoons whose ultimate discharge is regulated under the Clean Water Act, and sometimes injected into deep wells which are regulated under the Safe Drinking Water Act. Prior to today's rule, the treatment standard for these wastes required only removal of the characteristic property. The revised treatment standards require treatment, not only to remove the characteristic, but also to treat any underlying hazardous constituents which may be present in the wastes. Therefore, these revised treatment standards will minimize threats from exposure to hazardous constituents which may migrate from lagoons or wells. Finally, this rule codifies as a rule EPA's existing Enforcement Policy that combustion of inorganic wastes is an impermissible form of treatment because hazardous constituents are being diluted rather than effectively treated. This rule can be found in 61 FR 15566, April 8, 1996.
  9. Rule Title: Land Disposal Restrictions Phase II -- Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners. In 61 FR 15566 (see Item 8, above) EPA promulgated a final rule which, among other things, revises treatment standards for hazardous wastewaters that exhibit the characteristic of ignitability, corrosivity, or toxicity. The revised treatment standards were promulgated to implement the mandate of the opinion of the Circuit Court of Appeals for the District of Columbia Circuit in *Chemical Waste Management (CWM) v. EPA*, 976 F.2d 2 (D.C. Cir. 1992) cert. denied 507 U.S. 1057 (1993). On March 26, 1996, President Clinton signed into law the Land Disposal Program Flexibility Act of 1996, which, among other things, provides that the wastes in question are no longer prohibited from land-disposal so long as they are not hazardous wastes at the point they are land disposed. By operation of the statute, this provision is made effective immediately and, therefore, essentially overrules this portion of the CWM opinion. This rule, accordingly, is incorporating the statutory provision into the regulations by amending or withdrawing the portions of the regulations that are superseded by the new legislation. The amendment/withdrawal of these standards does not affect any other part of the final rule; and the effective dates of the other actions in the final rule likewise will not change. Furthermore, this rule amends parts of the LDR Phase II final rule, published on September 19, 1994 (59 FR 47982) which are also overruled by the legislation. This regulation can be found in 61 FR 15660, April 8, 1996.
  10. Rule Title: Land Disposal Restrictions Phase III -- Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners. This rule corrects several effective dates in 61 FR 15566 (see Item 8, above) This regulation can be found in 61 FR 19117, dated April 30, 1996.
  11. Rule Title: Land Disposal Restrictions Phase III -- Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners. This rule corrects technical errors in 61 FR 15566 (see Item 8, above). This rule can be found in 61 FR 33680, June 28, 1996.
  12. Rule Title: Land Disposal Restrictions Phase III -- Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners. This rule corrects typographical errors in 61 FR 15566 (see Item 8, above). This rule can be found in 61 FR 36419, July 10, 1996.
  13. Rule Title: Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs. This rule revises the existing criteria for solid waste disposal facilities and practices. The revisions in this rule establish that only those non-municipal non-hazardous waste disposal units that meet specific standards may receive conditionally exempt small quantity generator (CESQG) hazardous wastes. These revisions establish standards pertaining to location restrictions, ground-water monitoring and corrective action. EPA is also finalizing revisions to regulations for hazardous wastes generated by CESQGs. The language in this rule clarifies acceptable disposal options under Subtitle D of RCRA by specifying that CESQG hazardous waste may be managed at municipal solid waste landfills subject to § 258 and at non-municipal, non-hazardous waste disposal units subject to the revised criteria. This rule can be found in 61 FR 34251, July 1, 1996.
- C. Summary of state-specific changes.
1. In order to comply with the provisions of A.R.S. § 49-922(A) which states: "The director shall not adopt a nonprocedural standard that is more stringent than or conflicts with those found in 40 CFR 260 through 268, 270 through 272, and 124," ADEQ is proposing to recognize and enforce variances granted by the EPA pursuant to 40 CFR 260.30-33. These provisions pertain to variances from classification of certain recycled materials as solid waste and variances to be classified as a boiler of certain closed devices using controlled flame combustion. By previously excluding the variance process completely from rule, ADEQ prevented anyone from obtaining a variance. Because of the many complex scientific, technical, manufacturing processes and economic issues involved, ADEQ believes the expertise for determining whether a variance should be granted/denied is better placed with the EPA. For this reason, ADEQ is not incorporating 40 CFR 260.30-33 by reference, instead these paragraphs are replaced in R18-8-260(J) and (K) by language expressly stating that when the EPA Administrator grants the variance, the Director shall accept such determination, provided the variance is consistent with the policies and purposes of the HWMA.

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2. ADEQ is proposing to add clarifying language to R18-8-260 for small or large quantity generator for the annual registration fee. A.R.S. § 49-929 defines small and large quantity hazardous waste generators based upon a "per month" amount of hazardous waste generated. The "per month" can be interpreted as an average amount per month averaged over a year period, or the actual amount generated in any month in the calendar year. Therefore, the proposed rule expressly states in R18-8-260(M) that for the annual registration fee purposes, hazardous waste generator status is determined by the amount of hazardous waste generated in any month of the prior year.
3. ADEQ is proposing to amend R18-8-262(I) and (J) to expressly state the time frame for submission of the exception report. This is intended to clarify a vague area of the rule.
4. ADEQ is proposing changes to R18-8-273 by adding subsections (A) through (J). These changes will allow mercury-containing waste lamps to be designated as a universal waste and allow management of mercury-containing lamps as a universal waste. Nearly every business, institution, and government agency, as well as many households generate thousands of waste lamps that could become a hazardous waste problem if not handled properly. If these lamps are burned or disposed of in landfills, the mercury in them can be released into the environment. Based on EPA-performed tests on a broad range of waste lamps, the mercury-containing lamps such as fluorescent lamps will most probably fail the toxicity characteristic leaching procedure limit.

ADEQ believes that allowing mercury-containing waste lamps to be managed as a universal waste will greatly facilitate environmentally sound collection and increase the proper recycling or treatment of mercury-containing waste lamps. The risk posed by mercury-containing lamps during accumulation and transport is relatively low (e.g., similar to mercury-containing thermostats which are already classified as a universal waste in 40 CFR 273) compared to other hazardous wastes. The proposed management standards are protective of human health and the environment while substantially easing the existing hazardous waste management requirements.

5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

6. **The summary of the economic, small business, and consumer impact:**

The ADEQ believes that it may not be required to prepare an economic, small business and consumer impact statement (EIS) for this rulemaking because it may qualify as "decreasing monitoring, recordkeeping, or reporting burdens" under A.R.S. § 41-1055(D)(3). An agency may be exempt from preparing an EIS if a rulemaking decreases monitoring, recordkeeping, or reporting burdens. To qualify, however, the agency's probable implementation and enforcement costs must be less than the probable reductions in burdens. The ADEQ believes that probable reductions in burdens will exceed the agency's regulatory costs. In addition, this rulemaking merely incorporates by reference all final regulations promulgated by the Environmental Protection Agency (EPA) between July 2, 1995, and July 1, 1996.

The ADEQ seeks comments on the summary of the economic impact.

Incorporating the changes found in question 4 of the "Notice of Proposed Rulemaking" does not represent an incremental impact to Arizona because the EPA will enforce these regulations if Arizona does not. For Arizona to be authorized by the EPA to manage the federal hazardous waste program, the ADEQ must either incorporate by reference the federal regulations or promulgate state rules which are equivalent and consistent with federal regulations. Thus, incorporating these federal regulations will keep Arizona's hazardous waste management program funded by the EPA. The benefit of this rulemaking is that the ADEQ will be re-authorized to implement the federal program and receive approximately \$2 million annually by the EPA.

The state initiated changes are listed below:

1. The variance procedure will enable ADEQ to accept variance petitions if and when the EPA grants these petitions. Prior to this rulemaking, there was no mechanism for granting variance petitions by EPA or ADEQ.
2. The addition of clarification language to R18-8-260 to expressly state how generator status is determined for annual registration fee purposes.
3. The time frames for the exception reports are intended to clarify the current process and pose no additional requirements on the persons providing the reports.
4. The designation of mercury-containing waste lamps as a universal waste. This will ease the regulatory burden of management of mercury-containing waste lamps.

Because this rulemaking does not add more restrictive requirements than federal regulations (by incorporating them by reference) and it eases the regulatory burden for mercury contained lamps because they can be managed by the universal waste management rules, the ADEQ concludes at this time, that unless evidence is presented to the contrary, it is not required to prepare an EIS.

7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Lynn A. Keeling  
Address: Department of Environmental Quality  
3033 North Central Avenue, 8th Floor  
Phoenix, Arizona 85012-2809

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Telephone: (602) 207-2223 or (800) 234-5677 (Arizona only)

Fax: (602) 207-2251

**8. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding will be held at Department of Environmental Quality, 3033 North Central, Phoenix in the public hearing room at 9 a.m. on Monday, June 16, 1997. If you need special assistance please contact Michael Scholnick at (602) 207-4795. The 2nd oral proceeding will be held in Tucson at the Tucson state offices, 400 West Congress, at 10 a.m. on Tuesday, June 17, 1997. If you need special assistance please contact Bob Patterson, at (520) 628-6301. Persons interested in submitting written comments on today's proposal should postmark or fax them to the person identified above no later than 5 p.m. on Friday June 20, 1997.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.

**10. Incorporations by reference and their location in the rules:**

40 CFR 260, R18-8-260  
40 CFR 261 Including 61 FR 59932, November 25, 1996, R18-8-261  
40 CFR 262 Including 61 FR 59932, November 25, 1996, R18-8-262  
40 CFR 263, R18-8-263  
40 CFR 264 Including 61 FR 59932, November 25, 1996, R18-8-264  
40 CFR 265 Including 61 FR 59932, November 25, 1996, R18-8-265  
40 CFR 266, R18-8-266  
40 CFR 268 Including 61 FR 43924, August 26, 1996, R18-8-268  
40 CFR 270 Including 61 FR 59932, November 25, 1996, R18-8-270  
40 CFR 124, R18-8-271  
40 CFR 273, R18-8-273

**11. The full text of the rule:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY  
WASTE MANAGEMENT**

**ARTICLE 2. HAZARDOUS WASTES**

R18-8-260. Hazardous Waste Management System: General  
R18-8-261. Identification and Listing of Hazardous Waste  
R18-8-262. Standards Applicable to Generators of Hazardous Waste  
R18-8-263. Standards Applicable to Transporters of Hazardous Waste  
R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities  
R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities  
R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities  
R18-8-268. Land Disposal Restrictions  
R18-8-270. The Hazardous Waste Permit Program  
R18-8-271. Procedures for Permit Administration  
R18-8-273. Standards for Universal Waste Management

**ARTICLE 2. HAZARDOUS WASTES**

**R18-8-260. Hazardous Waste Management System: General**

A. Federal and state statutes and regulations cited in these rules are those adopted as of July 1, 1995 1996, unless otherwise noted. 40 CFR 124, 260 through 266, 268, 270, and 273 or parts thereof, are adopted by reference when so noted. Federal statutes and regulations that are cited within 40 CFR 124 and 260 through 270 that are not adopted by reference may be used as guidance in interpreting federal regulatory language.

B. No change.

C. All of 40 CFR 260 and the accompanying appendix, as amended as of July 1, 1995 1996, (and no future editions), with the exception of §§ 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33, are incorporated by reference and modified by the following subsections and are on file with the Department of Environmental Quality (DEQ) and the Office of the Secretary of State.

D. No change.

E. No change.

F. No change.

1. No change.

2. No change.

3. No change.

4. No change.

5. No change.

6. No change.

7. "Universal waste" means any of the hazardous wastes that are subject to universal waste requirements in 40 CFR 273 (as incorporated by reference by R18-8-273) and described in 40 CFR 273.2 through 40 CFR 273.4 and in R18-8-273(D) and R18-8-273(E).

G. No change.

H. No change.

I. No change.

J. § 260.30, entitled "Variances from classification as a solid waste," is replaced by the following: Any person wishing to submit a variance petition shall submit the petition, under this subsection, to the EPA. Where the administrator of EPA has granted a variance from classification as a solid waste pursuant to 40 CFR 260.30, 260.31, and 260.33, the director shall

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accept such a determination, provided the director determines such action is consistent with the policies and purposes of the HWMA.

- K. § 260.32, entitled "Variances to be classified as a boiler," is replaced by the following: Any person wishing to submit a variance petition shall submit the petition, under this subsection, to the EPA. Where the administrator of EPA has granted a variance from classification as a boiler pursuant to 40 CFR 260.32 and 260.33, the director shall accept such a determination, provided that the director determines such action is consistent with the policies and purposes of the HWMA.

- J.L. § 260.41, entitled "Procedures for case-by-case regulation of hazardous waste recycling activities," is amended by deleting the following from the end of the 6th, and the 7th and 8th sentences of paragraph (a):

"Or unless review by the Administrator is requested. The order may be appealed to the administrator by any person who participated in the public hearing. The Administrator may choose to grant or to deny the appeal."

- M. As required by A.R.S. § 49-929, generators and transporters of hazardous waste shall register annually with DEQ. The application for registration shall be accompanied by a registration fee for any of the following applicable applicants:

1. A hazardous waste transporter that picks-up or delivers hazardous waste in Arizona is required to pay \$200 by March 1 of the year following the date of the pick-up or delivery.
2. A large quantity generator which generated 1,000 kilograms or more of hazardous waste in any month of the previous calendar year is required to pay \$300.
3. A small quantity generator which generated 100 kilograms or more but less than 1,000 kilograms of hazardous waste in any month of the previous year is required to pay \$100.

**R18-8-261. Identification and Listing of Hazardous Waste**

- A. All of 40 CFR 261 and accompanying appendices, as amended as of July 1, 1995 1996 (and no future editions), with the exception of § 261.5(j), are incorporated by reference and modified by the following subsections of R18-8-261 and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to 40 CFR 261 and its appendices as amended at 61 FR 59932, on November 25, 1996, are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

- B. No change.  
C. No change.  
D. No change.  
E. No change.  
F. No change.  
G. No change.  
H. No change.  
I. No change.  
J. No change.  
K. No change.  
L. No change.

**R18-8-262. Standards Applicable to Generators of Hazardous Waste**

- A. All of 40 CFR 262 and the accompanying appendix, as amended as of July 1, 1995 1996, (and no future editions), are incorporated by reference and modified by the following subsections of R18-8-262, and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to 40 CFR 262 and its appendices as amended at

61 FR 59932, on November 25, 1996, are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

- B. No change.  
C. No change.  
D. No change.  
E. No change.  
F. No change.  
G. No change.  
H. No change.

- I. § 262.42, entitled "Exception reporting," is amended by replacing "The Exception Report shall include:" in paragraph (a)(2) with the following: "The Exception Report shall be submitted to DEQ within 45 days following the end of the month of shipment of the waste and shall include:"

- J. § 262.42, entitled "Exception reporting," paragraph (b) is amended by adding the following sentence to the end of the paragraph: "This submission to DEQ shall be made within 60 days following the end of the month of shipment of the waste."

- I.K. No change.  
J.L. No change.  
K.M. No change.  
L.N. No change.

**R18-8-263. Standards Applicable to Transporters of Hazardous Waste**

- A. All of 40 CFR 263, as amended as of July 1, 1995 1996, (and no future editions), is incorporated by reference and modified by the following subsections of R18-8-263, and on file with the DEQ and the Office of the Secretary of State.

- B. No change.  
C. No change.  
D. No change.  
E. No change.

**R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

- A. All of 40 CFR 264 and accompanying appendices, as amended as of July 1, 1995 1996, (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149 - 264.150, and 264.301(l), are incorporated by reference, and modified by the following subsections of R18-8-264, and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to 40 CFR 264 and its appendices as amended at 61 FR 59932, on November 25, 1996, are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

- B. No change.  
C. No change.  
D. No change.  
E. No change.  
F. No change.  
G. No change.  
H. No change.  
J. No change.  
I. No change.  
K. No change.  
L. No change.  
M. No change.  
N. No change.

**R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

- A. All of 40 CFR 265 and accompanying appendices, as amended as of July 1, 1995 1996 (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150,

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and 265.430, are incorporated by reference and modified by the following subsections of R18-8-265, and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to 40 CFR 265 and its appendices as amended at 61 FR 59932, on November 25, 1996, are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.
- K. No change.
- L. No change.

**R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities**

- A. All of 40 CFR 266 and accompanying appendices as amended as of July 1, 1995 ~~1996~~ (and no future editions), are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State.
- B. No change.

**R18-8-268. Land Disposal Restrictions**

All of 40 CFR 268 and accompanying appendices, as amended as of July 1, ~~1995~~1996 (and no future editions), with the exception of 40 CFR 268, Subpart B, are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to 40 CFR 268 and its appendices as amended at 61 FR 43924, on August 26, 1995, are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

**R18-8-270. The Hazardous Waste Permit Program**

- A. All of 40 CFR 270, as amended as of July 1, 1995 1996 (and no future editions), with the exception of §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64, is incorporated by reference and modified by the following subsections of R18-8-270 and is on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to 40 CFR 270 and its appendices as amended at 61 FR 59932, on November 25, 1995, are incorporated by reference and on file with the DEQ and the Office of Secretary of State.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.
- ~~[(22)(23)~~ No change.
- ~~(23)(24)(i)~~ No change.
  - (A) No change.
  - (B) No change.
  - (ii) No change.
- K. No change.
- L. No change.
- M. No change.
- N. No change.
- O. No change.

- P. No change.
- Q. No change.

**R18-8-271. Procedures for Permit Administration**

- A. All of 40 CFR 124 and the accompanying appendix as amended as of July 1, 1995 1996 (and no future editions), relating to HWM facilities, with the exception of §§ 124.1(b) through (e), 124.2, 124.4, 124.16, 124.20, and 124.21, are incorporated by reference and modified by the following subsections of R18-8-271 and are on file with the DEQ and the Office of the Secretary of State.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.
- K. No change.
- L. No change.
- M. No change.
- N. No change.
- O. No change.
- P. No change.
- Q. No change.

**R18-8-273. Standards for Universal Waste Management**

- A. All of 40 CFR 273 as amended as of July 1, 1995 (and no future editions), is incorporated by reference and modified by the following subsections of R18-8-273 and is on file with the DEQ and the Office of the Secretary of State.
- B. § 273.1, entitled "Scope" paragraph (a) is amended by adding the following:
  - (4) Mercury-containing lamps as described in R18-8-273(D).
- C. Applicability-mercury-containing lamps.
  - I. Mercury-containing lamps covered under R18-8-273. The requirements of this section apply to persons managing mercury-containing lamps as described in subsection (D), except those listed in subsection (D)(a).
    - a. Lamps not regulated under R18-8-273. The requirements of this section do not apply to persons managing the following lamps:
      - i. Lamps that are not yet wastes under 40 CFR 261 (as incorporated by R18-8-261). Subsection (C)(1)(b) describes when lamps become wastes.
      - ii. Lamps that are not hazardous wastes. A lamp is a hazardous waste if it exhibits 1 or more of the characteristics identified in 40 CFR 261(C) (as incorporated by R18-8-261).
    - b. Generation of waste lamps.
      - i. A used or spent mercury-containing lamp becomes a waste on the date it is removed from service.
      - ii. An unused mercury-containing lamp becomes a waste on the date the handler decides to discard it.
- D. § 273.6, entitled "Definitions" is amended by adding the following definition: "Mercury-containing lamp means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultra-violet (UV), visible, and infrared (IR) regions of the electromagnetic spectrum. Four common mercury containing lamps are

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- fluorescent lamps, sodium-vapor lamp, high- and low-pressure mercury vapor lamps, and high intensity discharge (HID) lamps.
- E. § 273.6, entitled "Definitions" is amended by adding the following to the definition of universal waste:
- (d) Mercury-containing lamps as described in subsection (D).
- E. § 273.13, entitled "Waste management" is amended by adding paragraph (d) as follows:
- (d) Universal waste lamps. A small quantity handler of universal waste shall manage universal waste lamps in a way that prevents releases of any universal waste or component of any universal waste to the environment, as follows:
- i. A small quantity handler shall manage universal waste lamps in a way that minimizes lamp breakage:
- (1). Contain unbroken lamps in packaging that will minimize breakage during normal handling; and
- (2). Contain broken lamps in packaging that will minimize releases of lamp fragments and residues.
- ii. A small quantity handler of universal waste lamps shall immediately contain all releases of residues from hazardous waste lamps.
- (3) A small quantity handler of universal waste lamps shall determine whether any materials (i.e., mercury, residues, or other solid wastes) resulting from the release exhibit a characteristic of hazardous waste, and if so, shall manage the waste in accordance with all applicable requirements in 40 CFR 260 through 272 (as incorporated by R18-8-260 through R18-8-271).
- (4) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.
- G. § 273.14, entitled "Labeling/marketing" is amended by adding paragraph (e) as follows:
- (e) A universal waste lamp, or a container in which the lamps are contained, shall be labeled or marked clearly with any 1 of the following phrases: "Universal Waste Mercury Lamp(s)," or "Waste Mercury Lamp(s)," or "Used Mercury Lamp(s)."
- H. § 273.33, entitled "Waste management" is amended by adding paragraph (d) as follows:
- (d) Universal waste lamps. A large quantity handler of universal waste shall manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (1) A large quantity handler shall manage universal waste lamps in a way that minimizes lamp breakage:
- (i) contain unbroken lamps in packaging that will minimize breakage during normal handling; and
- (ii) contain broken lamps in packaging that will minimize releases of fragments and residues.
- (2) A large quantity handler of universal lamps shall immediately contain all releases of residues from hazardous waste lamps.
- (3) A large quantity handler of universal waste lamps shall determine whether any materials (i.e., mercury, residues, or other solid wastes) resulting from the release exhibit a characteristic of hazardous waste, and if so, shall manage the waste in accordance with all applicable requirements in 40 CFR 260 through 272 (as incorporated by R18-8-260 through 272).
- (4) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.
- I. § 273.34, entitled "Labeling/marketing" is amended by adding paragraph (e), as follows:
- (e) Universal waste lamps (i.e., each lamp), or a container in which the lamps are contained, shall be labeled or marked clearly with any 1 of the following phrases: "Universal Waste Mercury Lamp(s)," or "Waste Mercury Lamp(s)," or "Used Mercury Lamp(s)."
- J. § 273.60, entitled "Applicability" is amended by adding paragraph (c) as follows:
- (c) The owner or operator of a destination facility that manages mercury-containing waste lamps as a universal waste; is in operation as of the effective date of this rule; and required to submit a hazardous waste permit application, shall submit Parts A and B of the application no later than 180 days following the effective date of this rule. Until such time that the Director takes final action on the application, the facility shall manage universal waste lamps in accordance with the document entitled "Department of Environmental Quality Compliance Agreement for a Mercury-Containing Waste Lamps Processing/Recycling Facility."

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

1. Sections Affected	Rulemaking Action
R19-3-701	Amend
R19-3-702	Amend
R19-3-703	Amend
R19-3-704	Amend
R19-3-705	Amend
R19-3-706	Amend
R19-3-707	Amend
R19-3-708	Amend
R19-3-709	Amend

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2. The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 5-504(B)

Implementing statute: A.R.S. § 5-504(B)

3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mr. Jody Spicola, Executive Director

Address: Arizona State Lottery Commission  
4740 East University  
Phoenix, Arizona 85034

Telephone: (602) 921-4514

Fax: (602) 921-4488

4. An explanation of the rule, including the agency's reason for initiating the rule:

R19-3-701 through R19-3-709 sets forth provisions unique to the conduct of the Arizona Lottery's instant games. These rules explain the common components of instant games: game profiles, game playstyles, how to identify a winning ticket, the procedures required to claim prizes and the claim period, ticket ownership, ticket validations, termination of an instant game, and disputes concerning a ticket. This amendment will provide consistency in the language of the text and further clarify play options, winning patterns, and prize determination.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

6. The preliminary summary of the economic, small business, and consumer impact:

These rules allow the Lottery to introduce new instant games in a more timely manner, thus providing the state and retailers with a potential increase in sales revenue.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Mr. Jody Spicola  
Executive Director

Address: Arizona State Lottery Commission  
4740 East University  
Phoenix, Arizona 85034

Telephone: (602) 921-4514

Fax: (602) 921-4488

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: June 20, 1997

Time: 10 a.m.

Location: Arizona State Lottery Commission  
4740 East University  
Phoenix, Arizona 85034

Nature: Oral Proceeding (Close of the record is 5 p.m., M.S.T., Thursday, June 19, 1997, for written comments and at the end of the oral proceeding for verbal comments.)

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

10. Incorporation by reference and their location in the rules:

Not applicable.

11. The full text of the rules follows:



**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

Section

- R19-3-701. Definitions
- R19-3-702. Game Profile
- R19-3-703. Game Playstyle
- R19-3-704. Determination of a Winning Ticket
- R19-3-705. Ticket Validation Requirements
- R19-3-706. Ticket Ownership and Payment for Instant Prize Winnings
- R19-3-707. Claim Period
- R19-3-708. Procedure for Claiming Prizes
- R19-3-709. Disputes Concerning a Ticket

**ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

**R19-3-701. Definitions**

In this Article, unless the context otherwise requires:

1. "Game profile" means the written document that includes non-confidential game information including, but not limited to, the game prize structure, game playstyle, and special game features.
2. "High tier" means any instant game ticket prize of \$600 or more.
3. "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play and/or prize symbols that determine if a ticket holder is entitled to a prize or prizes.
4. "Low tier" means any instant game ticket prize of less than \$100.
5. "Mid tier" means any instant game ticket prize of \$100 or more, up to and including \$599.
6. "Pack" means a group of tickets bearing a common identification number.
7. "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
8. "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
9. "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than 1 play area may appear on a ticket.
10. "Play symbols" mean the numbers, letters, symbols, or pictures printed in the play area of each instant ticket that determine if the ticket holder is entitled to a prize or prizes.
11. "Play symbol caption" means the printed characters under the protective covering on the ticket, located immediately below each play symbol, that verify the play symbol. No more than 1 play symbol caption appears under each play symbol.
12. "Prize structure" means the estimated number, value, and odds of winning prizes for an individual game.
13. "Prize symbol" means a character or characters printed that indicates the prize available in that game, as described in the Game Profile.
14. "Prize symbol caption" means the printed characters under the protective covering on the ticket, located immediately below each prize symbol that verify the prize

symbol. No more than 1 prize symbol caption appears under each prize symbol.

15. "Retailer validation code" means the multiple letters in the play area, under the protective covering that verify low- and mid-tier prize amounts.
16. "Theirs" means the opponent's play area or areas, (for example, "dealer's hand(s)", "house roll(s)").
17. "Ticket" means medium paper stock containing a play area or areas and the game play data for an individual game.
18. "Ticket holder" means a person who has possession of an unsigned ticket or prize voucher, or a person whose signature appears on a signed ticket or prize voucher.
19. "Validation number" means the unique multi-digit code found under the protective covering on each ticket that is used to validate winning tickets.
20. "Yours" means the ticket holder's play area or areas (for example, "your hand(s)", "your card(s)", or "your roll(s)").

**R19-3-702. Game Profile**

- A. The Commission shall approve the individual Game Profile prior to the game being introduced to the public for sale.
- B. At a minimum, the Game Profile for each game shall contain the following information:
  1. Game name;
  2. Game number;
  3. Prize structure, including the number and size of prizes available, free tickets, and merchandise prizes, if applicable;
  4. Playstyle;
  5. Play symbols, including variant symbol or symbols, if any;
  6. Retailer validation codes, if required;
  7. Special feature, if any;
  8. Retail sales price;
  9. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable ;
  10. Ticket medium.

**R19-3-703. Game Playstyle**

- A. The playstyle for an individual game shall be fully described in the Game Profile and shall be 1 of the following methods of play unless a different method is prescribed by another rule:
  1. Match Two,
  2. Match Three,
  3. Add-up,
  4. Tic-Tac-Toe,
  5. Key Symbol or Symbols Match,
  6. Key Symbol or Symbols Beat,
  7. Symbols in Sequence,
  8. Spellouts,
  9. In between,
  10. Bingo.
- B. More than 1 game and more than 1 playstyle may appear on a ticket.

**R19-3-704. Determination of a Winning Ticket**

- A. The play symbols are the only determining factor for prize eligibility for a valid ticket.
- B. For each play area on an individual ticket, the player shall remove the protective covering to find the play symbols, or the play and prize symbols. Eligibility to win a prize is based on compliance with the designated playstyles as follows:



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1. Match Two. The play shall win the prize or prizes indicated by uncovering 2 identical play symbols on a play area.
2. Match Three. The player shall win the prize or prizes indicated by uncovering 3 identical play symbols on a play area.
3. Add-Up. The player shall win the prize or prizes indicated in either of the following ways:
  - a. The player adds up the play symbols and the amount is greater than or equal to the designated key symbols on the ticket, or
  - b. The player adds up the play symbols designated as "yours" and the total is greater than or equal to the key symbol or symbols designated as "theirs".
4. Tic-Tac-Toe. The player shall win the prize or prizes indicated by uncovering 3 identical play symbols, in any row, column, or diagonal, on a 9 symbol grid on the play area.
5. Key Symbol or Symbols Match. The player shall win the prize or prizes indicated by uncovering a play symbol or symbols which is identical to the designated key play symbol or symbols.
6. Key Symbol or Symbols Beat. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated as "yours" in the ticket play area which is greater than the play symbol or symbols designated as "theirs".
7. Symbols in Sequence. The player shall win the prize or prizes indicated by uncovering the designated play symbols in the specified sequential order.
8. Spellouts. The player shall win the prize or prizes indicated by uncovering the play symbols to form the designated word or words.
9. In Between. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated as "yours" with a value less than the play symbol or symbols designated as "their high card" and greater than the play symbol or symbols designated as "their low card".
10. Bingo. The player shall win the prize or prizes indicated by uncovering the play symbols on the "Caller's Card" play area that are identical to the play symbols on 1 or more of the "Player's Card" which are located on the "Player's Card" in 1 or more of the following ways as indicated on the ticket:
  - a. Five consecutive play symbols, including the "free" play symbol, if appropriate, in any horizontal, vertical, or diagonal line; or
  - b. Play symbols in all 4 corners; or
  - c. All 5 consecutive play symbols in the top row, the bottom row, and the 1st and 5th columns, forming an outer frame pattern; or
  - d. The 2nd, 3rd, and 4th play symbols in the 2nd row, the 4th row, the 2nd column, and the 4th column forming an inner frame pattern; or
  - e. The 1st, 2nd, 4th and 5th play symbols in the 1st, 2nd, 4th and 5th rows, forming a box pattern in each of the 4 corners; or
  - f. The 3rd play symbol in the 1st and 5th rows, the 2nd and 4th play symbols in the 2nd and 4th rows, and the 1st and 5th play symbols in the 3rd row 3rd play symbol in the 1st and 5th rows, forming a diamond pattern; or
  - g. The 3rd, 4th and 5th play symbols in the 1st and 5th columns rows, the 2nd and 3rd play symbols in the 2nd and 4th columns rows, the 1st 3rd play symbols

- in the 3rd column 1st row, and the "free" play symbol, forming an "A" pattern; or
- h. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st and 5th rows, and the 1st play symbols in the 2nd, 3rd, and 4th rows, forming a "C" pattern; or
- i. The 1st, 2nd, 3rd, 4th and 5th play symbols in the 1st column, and the 2nd, 3rd, 4th and 5th play symbols in the 5th row, forming an "L" pattern; or
- j. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st and 5th columns, and the 3rd play symbol in the 2nd and 4th columns, and the "free" play symbol, forming an "H" pattern; or
- k. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st row, and the 2nd play symbol in the 3rd column, the "free" play symbol, and the 4th and 5th play symbols in the 3rd column, forming a "T" pattern; or
- l. Five consecutive play symbols in both diagonals forming a "X" pattern; or
- m. The 1st, 2nd, 3rd, 4th and 5th play symbols in the 1st row and 5th row, the 2nd play symbol in the 4th row column, the "free" play symbol, and the 4th play symbol in the 2nd row column, forming a "Z" pattern; or
- n. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st row, the 4th 2nd play symbol in the 2nd row 4th column, the "free" play symbol, the 2nd 4th play symbol in the 4th row 2nd column, and the 1st 5th play symbol in the 5th row 1st column, forming a "7" pattern; or
- o. All of the play symbols in the 1st, 2nd 3rd, 4th, and 5th rows, and the "free" play symbol, creating a "blackout".

- C. Each of the playstyles described in subsection (B) may include an special variant such as "automatic win feature", "doubler feature", "wild card", or "free space" that provides added or alternative methods of winning.

**R19-3-705. Ticket Validation Requirements**

- A. Each instant game ticket shall be valid and validated prior to payment of a prize.
- B. To be a valid ticket, all of the following requirements shall be met:
1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the Arizona State Lottery Commission;
  2. The ticket shall not be counterfeit or forged, in whole or in part;
  3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
  4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;
  5. ~~The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;~~
  - 6-5. The ticket shall have been issued by the Arizona State Lottery Commission in an authorized manner;
  - 7-6. The ticket shall have been legally obtained;
  - 8-7. The ticket shall pass the confidential validation and security tests appropriate to the applicable playstyle;
  - 9-8. The display appearing printed on the ticket shall correspond precisely with the approved artwork on file at the Arizona State Lottery Commission;
  - 10-9. The validation number of a winning ticket shall appear in the Arizona State Lottery's Commission's official file of validation numbers of winning tickets. A ticket with that validation number shall not have been paid previously;

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11-10. All of the ticket symbols originally displayed printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile;

12-11. The play and prize symbols shall have the required captions that confirm and agree with those applicable to that of the appropriate instant game and shall correspond to those shown in the Game Profile;

13-12. The ticket shall contain exactly 1 ticket validation number, 1 retailer validation code, if required, 1 game number, 1 pack-ticket number, and 1 PIN number, if required. The play and prize symbols, the play and prize symbol captions, ticket validation number, retailer validation code, game number, pack-ticket number, and PIN number shall be right-side up and not reverse in any manner.

**R19-3-706. Ticket Ownership and Payment for Instant Prize Winnings**

- A. If the winning ticket was purchased by a group of players, the group shall designate 1 of the claimants to sign the ticket or prize voucher. Each claimant shall complete an individual form to receive the claimant's portion of the prize.
- B. The Arizona State Lottery Commission shall only make payment to the claimant, less any authorized debt set-off amounts, who is also the ticket holder.
- C. Prior to payment of a prize, a claimant who has signed the ticket or prize voucher may designate another claimant to receive the prize by signing a relinquishment of claim statement.

**R19-3-707. Claim Period**

- A. In order for a claimant to receive payment, a winning instant game ticket or prize voucher shall be received by the Arizona State Lottery Commission or a retailer no later than 5 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game.
- B. In the case of a drawing prize, the claimant must claim the prize no later than 5 p.m. (Phoenix time) on the final day designated by the Director and on file at the Arizona State Lottery Commission.
- C. The end of an instant game shall be designated by the Director and on file at the Arizona State Lottery Commission.
- D. The Director is authorized to place any person's eligible entry that was not entered in the grand prize drawing into a subsequent grand prize drawing or drawings which have an equal or greater grand prize value.

**R19-3-708. Procedure for Claiming Prizes**

- A. To claim a low- or mid-tier instant game cash prize, a claimant may take the ticket or prize voucher to a retailer or to a Lottery office, or mail the ticket or prize voucher to a Lottery office

for validation. If the claim is verified and the ticket or prize voucher is validated as a winning ticket, the Arizona State Lottery Commission or the retailer shall make payment of the amount due to the claimant. If the retailer does not verify the claim, validate the ticket or prize voucher, or pay the amount due, the claimant may take or mail the ticket or prize voucher to a Lottery office for verification and validation. If the ticket or prize voucher is validated in accordance with these rules, the claimant shall receive payment.

- B. To claim a high-tier instant game prize, the claimant shall sign the back of the ticket or prize voucher, and take or mail the ticket or prize voucher and claim form to a Lottery office for validation. If the claim is verified and the ticket or prize voucher is validated as a winning ticket, the Arizona State Lottery Commission shall make payment of the amount due to the claimant. The claimant shall be notified if the ticket or prize voucher is not validated as winning ticket by the Arizona State Lottery Commission.
- C. If a prize winner dies prior to receiving full payment, the Arizona State Lottery Commission shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D. The Arizona State Lottery Commission shall be discharged of all liability upon payment of the prize money.
- E. Payment of prize money shall not be accelerated ahead of its normal date of payment.

**R19-3-709. Disputes Concerning a Ticket**

- A. If a dispute between the Arizona State Lottery Commission and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.
- B. If a defective ticket is purchased, the Arizona State Lottery Commission shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.
- C. The Arizona State Lottery Commission shall not be liable for paying the difference in a prize amount previously paid to a claimant and the actual amount that should be paid unless the claimant provides documentation establishing:
  - 1. That the claimant was paid the lesser amount; and
  - 2. That the claimant is entitled to a greater amount, according to the records on file at the Arizona State Lottery Commission and the criteria set forth in these rules and in order for the game approved by the Arizona State Lottery Commission pursuant to A.R.S. § 5-504(C).